



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,680	09/18/2003	Eric S. Reindel	1135/27/2	8256

25297 7590 11/02/2006

JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD
SUITE 1200
DURHAM, NC 27707

EXAMINER

ISABELLA, DAVID J

ART UNIT	PAPER NUMBER
----------	--------------

3738

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/666,680	REINDEL, ERIC S.	
	Examiner	Art Unit	
	DAVID J. ISABELLA	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 31, 32 and 35-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 7, 11-16, 20, 21, 25-30, 33 and 34 is/are rejected.
- 7) ☒ Claim(s) 3-10, 17-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/28/05; 8/14/06</u> | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election without traverse of claims 1-30,33,34 directed to group 1 including species 2A-2G in the reply filed on 8/17/2006 is acknowledged.

Claims 31,33 and 35-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention/species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/17/2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,6,7,11,12,13,14,15,16,20,21,25,26,27,28,29,30,33,34 are rejected under 35 U.S.C. 102(b) as being anticipated by Menon [5702470].

Applicant's claims as worded are readable on the wrist implant of Menon. The limitation corresponding to the socket protrusion including the language of "(d) wherein the socket protrusion of the carpal component is adapted to linearly engage the socket recess of the bearing component to desirably limit rotational and translational movement of the carpal component relative to the bearing component" does not preclude the sliding engagement of the socket recess and the protrusion in the device of Menon. It should be noted that the cooperation between the protrusion and the recess performs

Art Unit: 3738

the function of “desirably limit rotational and translational movement of the carpal component relative to the bearing component” as broadly claimed.

Claim 2, the elongated radial stem of the radial component is in an off-center position in relation to a center of the lower surface of the radial component.

Claims 6 and 7, the upper bearing surface of the radial component is at least substantially concave; and the lower bearing surface of the bearing component is at least substantially convex in proportional relationship to the substantially concaved upper bearing surface of the radial component.

Claim 11, the articulating bearing component is constructed of a plastic material.

Claim 12, the lower surface of the radial component has a first substantially flat portion and a second substantially flat portion disposed at an angle with respect to the first flat portion.

Claims 13 and 14, as broadly worded Menon discloses pushing the stem into the cement which may be construed as press-fitting the stem in the prepared canal. The language of “the elongated radial stem of the radial component is fixated to the radius bone through the use of bone cement” does not preclude fixation to the radius bone through press-fitting.

Claim 15 is an independent claim directed to similar subject matter as claim 1 further including the limitation of “each socket protrusion defines an opening therethrough adapted for receiving a screw”. This feature is disclosed by Menon.

Claims 16,20,21,25,26,27 and 28, are similar to the rejections to the corresponding dependent claims as rejected supra.

Art Unit: 3738

Claims 29,30 are similarly rejected as set forth supra.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menon [5702470] further in view of Ball et al [2003/0216813].

While it is not clear if the wrist system of Menon inherently possess a kit or system comprising plurality of interchangeable components/subcomponents, Ball et al teaches that modularity of components/subcomponents are well known in the art and does not form the inventive basis of applicant's invention.

Allowable Subject Matter

Claims 3-10,17-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. ISABELLA whose telephone number is 571-272-4749. The examiner can normally be reached on MONDAY-FRIDAY.

Art Unit: 3738

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CORRINE MCDERMOTT can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DAVID J. ISABELLA
Primary Examiner
Art Unit 3738

DJI
10/12/2006